

EXHIBIT 426

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 IN RE: NATIONAL) MDL No. 2804
5 PRESCRIPTION OPIATE)
6 LITIGATION) Case No.

1:17-MD-2804

7 THIS DOCUMENT RELATES TO) Hon. Dan A. Polster
8 ALL CASES)
9)

10 — — —
11 Friday, February 22, 2019

12 — — —
13 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
14 CONFIDENTIALITY REVIEW
15 — — —

16
17 Videotaped Deposition of MATTHEW ROGOS,
18 held at Marcus & Shapira LLP, One Oxford
19 Centre, Suite 3500, Pittsburgh, Pennsylvania,
20 commencing at 1:09 p.m., on the above date,
21 before Michael E. Miller, Fellow of the
22 Academy of Professional Reporters, Registered
23 Diplomate Reporter, Certified Realtime
24 Reporter and Notary Public.
25

23 — — —
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1 the format, there might have been some edits
2 that, as a group, the pharmacy key team, if
3 we had questions amongst us, we would ask to
4 see how we wanted to, I guess, update the
5 policy, or if there were things in the VAWD
6 checklist that we needed to ensure that were
7 in the policies to get the certification, we
8 needed to put those in.

9 BY MR. BARTON:

10 Q. Okay. So as of August of 2014,
11 looking kind of at the effective date shown
12 here for this policy on this document, on
13 Exhibit 7, as of -- as of August 1st of 2014,
14 do you recall having directed at HBC that
15 there be any training of HBC employees on how
16 one might identify an order from a pharmacy
17 of controlled substances as suspicious?

18 MR. KOBRIN: Object to form.

19 A. What employees?

20 BY MR. BARTON:

21 Q. Any. Anyone at the warehouse,
22 I guess. Anyone under your supervision
23 ultimately.

24 A. I don't recall any specific
25 training. There were employees that were in

1 place prior to my arrival at HBC that might
2 have gotten training.

3 Q. Okay. Do you recall whether,
4 at HBC at the time we're talking about now,
5 in 2014, was there like a learning management
6 system for employees to get all kinds of
7 training that they may need for their jobs?

8 MR. KOBRIN: Object to form.

9 A. I can't recall.

10 BY MR. BARTON:

11 Q. Okay. You understand what I'm
12 referring to, though, in terms of like an
13 LMS, learning management system, for employee
14 training? Is that something you have had
15 familiarity with in your career?

16 A. It is.

17 Q. And one of the things that an
18 LMS system can do if an employer sets it up
19 this way is to have training for its
20 employees, for example, on policies and
21 procedures, correct?

22 A. I would assume, yes.

23 Q. Okay. But as you sit here, you
24 don't recall whether that existed in that --
25 whether that functionality existed in HBC at

1 identify if a certain pharmacy within our
2 Giant Eagle system was ordering over -- or I
3 guess overordering a certain prescription.

4 I know that they did monitor
5 that and would send out monthly reports on
6 thresholds to us if any store was over the
7 threshold.

8 Q. Okay. So there was a company
9 system, what you're referring to, that you
10 understood was in place to be monitoring for
11 orders that somehow were flagged by the
12 system as potentially suspicious?

13 A. Correct.

14 Q. Based on quantity or frequency
15 or size or anything that the system might be
16 flagging?

17 A. I don't know what the specifics
18 were on the flags, but yes.

19 Q. Right. You didn't set up that
20 system to kind of put in whatever parameters
21 it had, correct?

22 A. No.

23 Q. So that -- and my question was
24 really just about what's -- what was in this
25 written policy as of this point in time

1 that -- none of that that you've just
2 described, the companywide system or any
3 other criteria that employees might use for
4 identifying an order of suspicious -- an
5 order as suspicious, that's not -- that's not
6 explained in this document, correct?

7 A. No.

8 Q. Okay. What this document does
9 do is it addresses how HBC intended to
10 respond if it identified or suspected an
11 order as suspicious?

12 MR. KOBRIN: Object to form.

13 A. That's correct.

14 MR. BARTON: Okay.

15 (HBC-Rogos Deposition Exhibit 8
16 marked.)

17 BY MR. BARTON:

18 Q. I'm handing you Exhibit 8.
19 Exhibit 8 is a multiple-page document
20 starting with page Bates number
21 HBC_MDL00132908; is that correct?

22 A. Yes.

23 Q. And the last page of this
24 exhibit, Bates HBC_MDL00132924; is that
25 right?

1 A. My understanding, yes, uh-huh.

2 Q. There -- was there ever, during
3 the time that you were director of warehouse
4 operations, was there ever any specific
5 training that you directed or conducted of
6 your employees on suspicious order
7 monitoring?

8 A. Not that I did.

9 Q. Okay. Did it ever occur? I
10 mean, apart from whether you actually did the
11 training, did you -- do you know whether your
12 employees ever got training on the specifics
13 of suspicious order monitoring while you were
14 director of warehouse operations?

15 A. No.

16 Q. Okay. And I think you've
17 testified there wasn't, to your recollection,
18 or at least you're not able to say there was,
19 an LMS training system where it would be
20 documented somewhere that every employee was
21 trained on these policies, correct?

22 A. I'm not aware of that.

23 Q. Okay. After -- after this
24 policy was revised to include the suspicious
25 order criteria that counsel was just pointing